

GREENBLUM &amp; BERNSTEIN, PLC

Fax Msg. No. P21995.F06

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**FACSIMILE COVER PAGE**

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**TOTAL NUMBER OF PAGES, INCLUDING THIS COVER PAGE: 3**

CALLED FAX NO. : 703-872-9306

TO : U.S. Patent and Trademark Office  
Art Unit 3765  
Attn: Examiner Robert H. MUROMOTO, Jr.

FROM : Greenblum & Bernstein, P.L.C.  
James L. Rowland, Reg. No. 32,674

DATE : October 29, 2004

SUBJECT : U.S. Pat. Appln No. 10/083,580  
Attorney Docket No. P21995

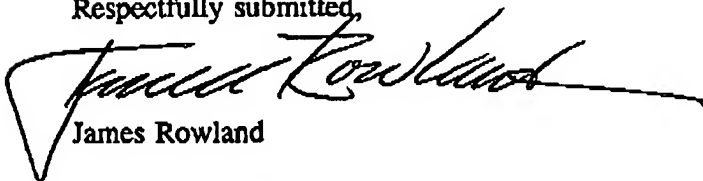
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**Examiner Muromoto:**

I am transmitting herewith a two page "Request for Withdrawal of Premature Final Rejection."

The Applicants would much appreciate your prompt attention.

Respectfully submitted,



James Rowland

Telephone No. : (703) 716-1191

Fax No. : (703) 716-1180

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OCT 29 2004

Appln. No. 10/083,580

P21995.A04 (S 897/US)

**PATENT APPLICATION**  
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants	: Benoit SAILLET et al.	)	
		)	Group Art Unit 3765
Appln. No.	: 10/083,580	)	
		)	Examiner Robert H. Muromoto, Jr.
Docket No.	: P21995	)	
		)	Confirmation No. 5891
Customer No.	: 7055	)	
		)	
Filed	: February 27, 2002	)	
		)	
Title	: WATER SPORTS GARMENT HAVING	)	
	A MULTI-LAYERED ZONE	)	

**REQUEST FOR WITHDRAWAL  
OF PREMATURE FINAL REJECTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants respectfully request that the finality of the Office action dated October 1, 2004 be withdrawn for being premature.

On page 7 of the Office action dated October 1, 2004, it is stated that "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP §706(a)."

Applicants have seen MPEP §706(a), as instructed, and submit that the new grounds of rejection which rely upon MIDDLETON (U.S. Patent No. 5,787,502) were not necessitated by Applicants' amendment.

Appln. No. 10/083,580

P21995.A04 (S 897/US)

In the first Office action, all grounds of rejection were based, at least in part, on British Patent Publication No. 974,426 (BOLTON). As Applicants pointed out in the "Remarks" section of their amendment, BOLTON failed to disclose, *inter alia*, a garment having inner and outer layers, as specified in Applicants' claims, as originally filed.

*MIDDLETON, newly cited in the Office action of October 1, 2004, is cited as disclosing a garment having inner and outer layers.*

In Applicants' amendment of March 5, 2004, claim 1 (rejected as anticipated by BOLTON) was amended by adding a portion of the subject matter of original claim 5 (also rejected as anticipated by BOLTON).

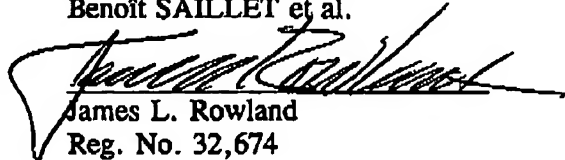
Additional amendments to claim 1 were of the non-substantive variety. For example, where claim 1 had initially described the underlying layer as lining the skin (of the wearer) "in an elastically deformable manner," the claim was amended to specify that the underlying layer comprises an "elastic material." Further, claim 8 had initially specified "elastic material."

In short, Applicants submit that the new grounds of rejection were necessitated by virtue of the deficiencies in the grounds of rejection in the first Office action, rather than Applicants' amendment.

At least for the foregoing reasons, Applicants kindly request that the finality of the Office action of October 1, 2004 being withdrawn.

Any comments or questions concerning this application can be directed to the undersigned at the telephone or fax number given below.

Respectfully submitted,  
Benoît SAILLET et al.



James L. Rowland  
Reg. No. 32,674

October 29, 2004  
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